

Settlements--Assuring Clean Air Standards

The AVAQMD adopts rules and implements programs that are designed to protect the public health and to assure that local businesses comply with state & federal air pollution laws. To assure compliance with these requirements, the District is the local agency authorized by the California Health & Safety Code to enforce air pollution rules and regulations throughout the Antelope Valley.

What is a Notice of Violation?

A Notice of Violation (NOV) is the AVAQMD's official record that someone has violated a rule, permit condition, or law relating to air pollution. An NOV is issued every time a violation is observed or discovered, and has a similar look and feel to a traffic ticket issued by the CHP.

The primary purpose of an NOV is to initiate corrective action and reduce air pollution. To provide an incentive for businesses and individuals to adhere to permit compliance, NOV's typically result in monetary penalties. Serious or repeated violations that show blatant disregard for the law and for public health can lead to civil or criminal prosecution.

Once an NOV is issued a District letter is sent to the local business. The case is also reviewed by the District's Enforcement Manager to determine if further enforcement action is warranted. If the case appears to warrant further action, the District then decides whether to refer the case for legal action or enter into the Mutual Settlement Program with the impacted business.

The Mutual Settlement Program

The District's Mutual Settlement Program is a voluntary procedure for settling both minor and major air pollution violations, without the time and expense of litigation to either party. Once the District moves a case forward to the Mutual Settlement Program, a settlement proposal letter is sent to the business outlining the facts associated with the original NOV. The settlement letter specifies the violation penalties and proposes the terms to resolve the violation. Key factors addressed in the case settlement include factors such as:

- extent of harm caused by the violation;
- nature and persistence of the violation;
- length of time violation occurred;
- past violations; and
- economic benefit of noncompliance.

The settlement letter invites businesses to bring the air pollution matter to a close. The terms are set in writing for both parties to agree upon. Resolution of a Notice of Violation through a mutual settlement agreement is not considered an admission of liability

Office Conference

In most cases, violations can be resolved through the AVAQMD's Mutual Settlement Program. However, businesses may request a discussion of the settlement offer at a voluntary office conference. This is an informal meeting with the District enforcement staff intended to provide an open forum to discuss the original NOV and to come to a mutual resolution for all parties.

Businesses may present evidence in defense of their case. If the business is able to prove that the violation was minor and not a result of intentional or negligent conduct, the District may amend the proposed settlement. After the conference meeting, District staff further evaluates the case and submits a letter to the business outlining modified violation settlement penalties. If the alleged business does not respond to this letter, or if the matter cannot be resolved, the case will be referred to AVAQMD's legal counsel.

Legal Action

Violations that are not resolved with the NOV and Mutual Settlement Program are then forwarded to the District's legal counsel (District Attorney or County Counsel) for formal resolution. Some of these cases may be settled out of court. However, the referral of a violation to legal counsel may result in civil or criminal prosecution.

Unusually serious violations which could have been prevented or which show willful disregard for public health and air pollution control laws may be referred for criminal prosecution. Criminal penalties for such violations may be as high as \$1,000,000 and one year in jail for each day of violation.

Penalties

To provide incentives for business to comply with the air pollution regulations, the District levies penalty fees when issuing NOVs or when reaching settlement via the Mutual Settlement Program or litigation. Depending on the severity of air pollution violation, penalty fees can vary from a minimum of \$500 per day for minor cases to as much as \$1,000,000 per day plus imprisonment time for extreme neglect. The California Health & Safety Code, Sections 42400 and 42402 provide guidance to the District in stating the maximum allowable penalties for any person who negligently emits air contaminants in violation of air pollution standards.

For More Information

For more information about the Settlement Program or other compliance issues, call (661) 723-8070 or email: bbanks@avaqmd.ca.gov